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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,918	09/21/2006	Alexander Kaiser	30071/41843	5470
4743 7590 01/28/2009 MARSHALL, GERSTEIN & BORUN LLP 233 SOUTH WACKER DRIVE 6300 SEARS TOWER CHICAGO, IL 60606-6357			EXAMINER ADAMS, GREGORY W	
			ART UNIT 3652	PAPER NUMBER
			MAIL DATE 01/28/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/575,918

Applicant(s)

KAISER ET AL.

Examiner

GREGORY W. ADAMS

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-4 & 6-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Correggi et al. (US 20030168314).

Correggi et al. disclose-

- a transposing device 31 for forming layers of objects that are fed in rows,
- a pallet loader 5 transferring layers to pallets,
- a conveyor 10 situated between a transposing device and a pallet loader for layers formed by a transposing device and
- a receiver station 2 for intermediate storage of a layer,

- a transposing device optionally loads a conveyor zone or a buffer with objects and a pallet loader receives layers of objects from either a conveyor zone or a buffer.

Correggi et al. does not refer to a receiver station as a "buffer". Correggi discloses reducing idle times in bottle loaders because prior palletizers did not include means for forming layers while an already formed layer was being conveyed to an intermediate storage station. And buffer is defined as "any intermediate or intervening shield or device reducing the danger of interaction between two machines, chemicals, electronic components, etc." www.dictionary.com. Thus, Correggi's intermediate receiver station 2 could be used as a buffer as otherwise pallet robot 5 would collide with transposing device or a conveyor during transfer. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Correggi to use receiver station as a buffer which reduces palletizer robot idle time and it prevents equipment from collisions.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Correggi et al. in view of Corniani et al. (US 6,308,817). Corniani et al. discloses conveyor chains 13, 33 for grouping bottles without sever mechanical stress, i.e. without arresting each bottle against a stationary bottle in a group. C1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Correggi et al. to include Corniani's conveyor chains to reduce mechanical stress when grouping bottles.

Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Correggi et al. in view of Corniani et al. and further in view of Harris et al. (US 4,651,879). Correggi discloses multiple conveyors 4 and does not disclose conveyor chains or clamping starwheels. Corniani et al. discloses conveyor chains 13, 33 for grouping bottles without sever mechanical stress, i.e. without arresting each bottle against a stationary bottle in a group. C1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Correggi et al. to include Corniani's conveyor chains to reduce mechanical stress when grouping bottles. Harris et al. discloses a plurality of clamping star wheels 14, 16 revolving in synchronization being connected one 16 directly downstream removing the objects (2) individually from a conveyor 12 and distributing them among multiple paths 22, 24, 26, 28. Harris et al. teach that in bottle manufacturing sorting is necessary for indicia markings and/or shape for the ultimate purpose of ensuring they arrive a destination for similar bottles. C1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Correggi to include a distributor that has multiple starwheels that distribute to multiple conveyors, as per the teachings of Harris, to ensure that similarly marked or shaped bottles arrive at the proper destination after sorting.

Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Correggi et al. in view of Corniani et al. and Harris et al. and further in view of Doudement et al. (US 6,591,967). Correggi discloses feeding bottles to conveyors 4 from a bottle producer and does not disclose a blow molding machine. Doudement et al.

disclose a conveyor 14 forms a tangent to a discharge star wheel (17) of a blow molding machine 12. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Correggi to include a blow conveyor 14 forms a tangent to a discharge star wheel (17) of a blow molding machine as is one well known means for producing bottles.

Response to Arguments

Applicant's arguments filed Dec. 15, 2008 have been fully considered but they are not persuasive.

With respect to claim 1-12, Applicants assertion that a buffer is "a device that creates a momentary separation of objects" is irrelevant without proper evidence. Applicant also argues that the cited prior art does not disclose a buffer as recited in claim 1. As noted in the June 13, 2008 office action "buffer" is not defined within claims 1-12 nor is it defined by the specification. Thus, a standard dictionary definition is appropriate. According to a standard dictionary buffer is "any intermediate or intervening shield or device." see www.dictionary.com. Correggi's receiver station 2 holds a layer for at least a moment prior to be moved. Thus, Correggi discloses a buffer as defined by www.dictionary.com.

Applicant also argues that the examiner's conclusion of obviousness is based upon improper hindsight reasoning (no suggestion to use Correggi's receiver station as a buffer), it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the

claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). In this case applying a dictionary definition informs what is clearly disclosed in the cited prior art. And, Applicant is improperly narrowing Correggi because element 2 is labeled as a receiver station, not as a final destination. And no modification is necessary for element 2 to function in an intermediate fashion, i.e. as a set-down place for bottles in between robot moves to/from conveyor 3.

With respect to claim 13, "distributor" is not defined except that it forms rows. Correggi discloses a distributor that loads "articles into their loader carriage" 3. Para. [0013]. And since the carriage includes a plurality of rows, the distributor functions in the manner Applicant recites in claim 13.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY W. ADAMS whose telephone number is (571)272-8101. The examiner can normally be reached on M-Th, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory W Adams/
Primary Examiner, Art Unit 3652